MUHAMAD NUR SIRAS MUNIR MD DZAFIR
v. MENTERI DALAM NEGERI MALAYSIA & ORS

HIGH COURT MALAYA, SHAH ALAM
NURULHUDA NUR'AINI MOHAMAD NOR JC
[CRIMINAL APPLICATION NO: BA-44-248-09-2022]
15 NOVEMBER 2022

Abstract – *The issuance of a detention order must satisfy the pre-conditions of art. 149 of the Federal Constitution and the preamble to the Dangerous Drugs (Special Preventive Measures) Act 1985, that the issuance of the detention order is necessary in the interest of public order, having regard to prejudicial action having been taken by a substantial body of persons. When the evidence shows that the accused was not acting on his own but was hired for a reward to execute the carrying out of the plan already chartered by the members of the alliance or syndicate, this satisfied the requirements of 'against public order' and 'substantial body of persons'.*

CRIMINAL PROCEDURE: *Habeas corpus – Application for – Whether there was breach of art. 149 of Federal Constitution – Whether statement of facts complied with requirement of 'substantial body of persons' involvement – Whether there was failure to show act of trafficking – Dangerous Drugs (Special Preventive Measures) Act 1985, s. 3(1)*

PREVENTIVE DETENTION: *Habeas corpus – Application for – Whether there was breach of art. 149 of Federal Constitution – Whether statement of facts complied with requirement of 'substantial body of persons' involvement – Whether there was failure to show act of trafficking – Dangerous Drugs (Special Preventive Measures) Act 1985, s. 3(1)*

The applicant contended that he was arrested and detained for 60 days beginning sometime in September 2020 but the investigating officer deposed that the applicant was arrested on 16 October 2020 under s. 3(1) of the Dangerous Drugs (Special Preventive Measures) Act 1985 ('Act'). The complete investigation report under s. 3(3) was then handed to the inquiry officer and the Minister on 5 November 2020. The inquiry on the applicant was held on 12 November 2020 and the report under s. 5(4) to the Minister was completed on the same day. The detention order (DO) under s. 6(1) of the Act, for the applicant to be detained at the Pusat Pemulihan Akhlak, Batu Gajah, Perak for a period of two years, commencing from 20 November 2020, was issued by the Minister and served on the applicant. The Advisory Board sat on 13 January 2021 and having heard all parties, made a recommendation on 22 January 2021. On 29 January 2021, YDPA agreed with the recommendation for the DO to be proceeded with. The DO was suspended on 10 May 2021 and the suspension order under s. 7(1) was for

the applicant to undergo a restriction order instead, commencing from 11 May 2021. The restriction order was for the applicant to be within the restricted area of Mukim Sungai Petani, Kedah. The restriction order was, however, revoked by the Minister on 16 June 2021 acting on an application made by the second respondent and based on a police report that the applicant had breached the terms of the restriction order. With this revocation, the applicant was directed to be detained once more. The issues raised by the applicant in seeking his release in this application for a writ of *habeas corpus* were: (i) there was a breach of art. 149 of the Federal Constitution ('FC') as statement of facts did not comply with the requirement of 'substantial body of persons' involvement; and (ii) the failure to show that the applicant's involvement in the activities fell within the act of 'trafficking' under s. 2 of the Dangerous Drugs Act 1952.

Held (dismissing application for *habeas corpus*):

(1) The detention order issued must satisfy the pre-conditions of art. 149 of the FC and the preamble to the Dangerous Drugs (Special Preventive Measures) Act 1985 that the issuance of the detention order is necessary in the interest of public order, having regard to prejudicial action having been taken by a substantial body of persons. In this case, the statement of fact revealed that the applicant was acting as a medium for the local drug trafficker to hide the money trail of the big purchase sum of RM12,000 to RM15,000 where the applicant was deployed to receive the purchase money, for a reward, in place of the actual drug trafficker who would be the seller. Regardless of whether the big sum is stored somewhere or not, the act of receiving this purchase sum indicating of an attempt to hide its trail acts as a camouflage to the trafficking activity of the local drug trafficker so as to erase any money tracing that could link the drug trafficker to the sale and purchase of the dangerous drugs. This smart *modus operandi* in operating the drug trafficking activity and playing a role to influence the public to act as part of the chain of transaction in the trafficking activity must surely come from a high-level thinking group of people who are able to deploy its counterpart to influence others to agree to participate and be involved. (paras 13 & 19)

(2) As stated in the case of *Selva Vinayagam Sures v. Timbalan Menteri Dalam Negeri*, 'a substantial body of persons' refers to a 'large number of individuals acting in concert or working together for a common purpose'. It is immaterial which part of the chain of transaction this individual person (the applicant) appears so long as he or she is acting in concert for the same purpose that is to complete the drug trafficking activity. Hence, with the applicant's role in assisting the 'pengedar dadah tempatan', it must necessarily have to be a group with a number of members as each member has a separate or similar role to perform until the completion of the drug trafficking activity, the circle non-stop but repeated as the period encompassed to be a number of months.

When this court said it is a group with a number of members, it must necessarily mean an alliance formed to execute what would be impossible to execute individually. This formation of an alliance would satisfy the word 'syndicate' and need not necessarily mean of any particular large number of individuals. (paras 20 & 21)

(3) On the restriction to detain the applicant only, if it could be shown that he was a member of a substantial body of persons, it need not be until a determination is made that he is a member of a syndicate because unless otherwise, the 60 days of the time given may be insufficient. Suffice if it could be shown that he operated the drug trafficking activity within a group of people. The non-stop continuous drug trafficking cases were due to many individuals, either knowingly or not, were being used as drug mule by the syndicate. Reason being it was not just this single application for *habeas corpus* by this applicant was filed and heard, but many others in other courts and in other States. This meant, cumulatively, different individual acting as conduit pipe to receive, deliver the drugs to the purchaser. Thus, put all these individuals together acting in concert with the 'pengedar dadah tempatan' moved this preventive law into place. (paras 23 & 25)

(4) As ventilated, 'a substantial body of persons' refers to not just 'a number of persons' but 'a large number' but yet no mathematical formula was set for the court to come to a decision that a particular number is a large number. This court, having deliberated on this, ruled that the formulation of the statement of fact above showed that the applicant was not acting on his own move but was hired for a reward to execute the carrying out of the plan already chartered by the members of the alliance or syndicate. This satisfied the requirement of against public order and a substantial body of persons. (paras 25 & 26)

(5) The Minister had deposed an affidavit affirming his belief that the act of the applicant, as exhibited in the detention order, was related to or involving the trafficking of dangerous drugs, and was against public order. With the enemy of the State that was the syndicate widening its scope in engaging willing drug mules to be their arms and legs to perform the prohibited activities and to chart ways and means to deter easy tracing to them, it makes all the sense to picture differently the receipt of the lucrative pay from the trafficking activity by introducing the role of the applicant so as to provide another layer of the money flow to prohibit from easy tracking to the syndicate. In the upshot, the application for *habeas corpus* was without merits and was dismissed. (paras 33-35)

Case(s) referred to:

Arvind Raj Thamil Selvan (05(HC)-103-09-2020(J)) (Unreported) ***(refd)***
Hadi Adlin Abd Wahab (05(HC)-249-11-2021 (B)) (Unreported) ***(refd)***
Izham Mahamad (05(HC)-223-10-2021 (B)) (Unreported) ***(refd)***

Mohamad Ibrahim Kamarudin lwn. Timbalan Menteri Dalam Negeri, Malaysia & Yang Lain [2018] 1 LNS 59 HC ***(refd)***
Mohammad Zulkarnain Zamri (High Court No: AA-44-45-08-2020) (Unreported) ***(refd)***
Mohd Arizal Abdullah (Criminal Application BA-44-98-03-2022) (Unreported) ***(refd)***
Muhammad Redzuan Omar v. Timbalan Menteri Dalam Negeri, Malaysia & Anor [2022] 1 LNS 880 FC ***(refd)***
Selva Vinayagam Sures v. Timbalan Menteri Dalam Negeri, Malaysia & Ors [2021] 2 CLJ 29 FC ***(refd)***
Teoh Kim Teik (05(HC)-221-10-2021 (B)) (Unreported) ***(refd)***
Yeh Ing Heoy (B-01(A)-370-05-2022 (COA)) (Unreported) ***(refd)***

Legislation referred to:
Dangerous Drugs Act 1952, s. 2
Dangerous Drugs (Special Preventive Measure) Act 1985, ss. 3(1), (3), 5(4), 6(1), 7(1), 10(1)
Federal Constitution, art. 149

For the applicant - Naizatul Zamrina Karizaman; M/s KL Chee & Co
For the respondents - Zulkipli Abdullah; SFC

Reported by Suhainah Wahiduddin

JUDGMENT

Nurulhuda Nur'aini Mohamad Nor JC:

Background Facts

[1] The applicant contended that he was arrested and detained for 60 days beginning sometime in September 2020 but the investigating officer in his affidavit (encls. 7 and 17) deposed that the applicant was arrested on 16 October 2020 under s. 3(1) of the Dangerous Drugs (Special Preventive Measure) Act 1985 (hereafter referred to as "the Act").

[2] The statement of the applicant was taken by the investigating officer (IO) ASP Mohd Kamal bin Abd Wahab as per encl. 17 on 20 October 2020. The statements of witnesses were subsequently obtained on 12 October 2020 and 13 October 2020 respectively.

[3] The complete investigation report under s. 3(3) was then handed to the inquiry officer and the Minister on 5 November 2020. The inquiry officer in his affidavit encl. 16 said the report from the IO was received on that same date 5 November 2020.

[4] The inquiry on the applicant was held on 12 November 2020 and the report under s. 5(4) to the Minister was completed on the same day and sent similarly on the same day.

[5] The detention order (DO) under s. 6(1) of the Act on the applicant, for him to be detained at the 'Pusat Pemulihan Akhlak, Batu Gajah, Perak for a period of two years commencing from 20 November 2020 was issued by the Minister dated on the same date and served on the applicant similarly on the same date.

[6] Having served the detention order together with the statement of facts and Borang 1 on 20 November 2020, the applicant had sought for his representation before the advisory board with Borang 1 filled up on 20 November 2020 itself. Borang 1 however, was only sent to the advisory board on 21 November 2020 as the applicant, for security reasons due to the geographical location of the centre and the late hour of the service of the DO, was only brought to the detention centre on 21 November 2020.

[7] Borang 1 was handed over to the authorities of the centre and was faxed to the advisory board on that same day 21 November 2020 as per encl. 5. As it was a Saturday, the official endorsement acknowledging receipt by the advisory board was on 23 November 2020 as per encl. 14 of the secretary to the board.

[8] The advisory board sat on 13 January 2021 and having heard all parties, made a recommendation under s. 10(1) to the YDPA on 22 January 2021. On 29 January 2021, YDPA agreed with the recommendation for the DO to be proceeded with.

[9] The detention order however was suspended on 10 May 2021 and the suspension order under s. 7(1) for the applicant to undergo a restriction order instead, commencing from 11 May 2021, was served on the applicant on 11 May 2021 as per encl. 11. The applicant was required to report himself before the OCPD (Ketua Polis Daerah) of Kuala Muda, Kedah on 11 May 2021 before 11pm. The restriction order was for the applicant to be within the restricted area of Mukim Sungai Petani, Daerah Kuala Muda, Kedah.

[10] The restriction order was revoked by the Minister on 16 June 2021 acting on an application made by the second respondent and based on a police report Sg Petani 014789/22 dated 7 June 2022 the contents directed to the Minister's attention that the applicant had breached the terms of the restriction order of s. 7(1) of the Act. The revocation order dated 16 June 2022 annexed as 'DSIMS-3' to encl. 23 of the Minister's affidavit. With this revocation, the applicant was directed to be detained once more at PPA, Batu Gajah, Perak.

[11] The statement of fact exhibited as 'DSIMS-1' shows as follows:

> Dadah Berbahaya (Langkah-langkah Pencegahan Khas) 1985
>
> Nama Orang Tahanan : Muhammad Nur Siras Bin Md Dzafir
>
> No. Kad Pengenalan : 971201-07-5431
>
> Alasan-alasan Yang Atasnya Perintah Itu Dibuat:
>
> Bahawa kamu pernah ada kaitan dengan apa-apa aktiviti yang berhubungan dengan atau yang melibatkan dengan pengedaran dadah berbahaya seperti yang ditakrifkan di bawah Seksyen 2 Akta Dadah Berbahaya 1952 (Akta 234) iaitu mengedar dadah berbahaya jenis Heroin dan dadah jenis Syabu yang mengandungi dadah berbahaya jenis

Methamphetamine seperti yang tersenarai di bawah Jadual Pertama, Bahagian III, Akta Dadah Berbahaya 1952 (Akta 234). Oleh itu, tindakan kamu telah memudaratkan ketenteraman awam dan tindakan di bawah Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) 1985 perlu diambil ke atas kamu.

Pengataan-pengataan Fakta Yang Atasnya Perintah Itu Diasaskan:

1. Bahawa kamu didapati terlibat dengan aktiviti pengedaran dadah berbahaya jenis Heroin dan dadah jenis Syabu yang mengandungi dadah berbahaya jenis Methamphetamine sejak bulan Februari 2020 sehingga 3 Oktober 2020 secara tidak berterusan di sekitar kawasan No. 7522B, Jalan Dato Haji Ahmad Badawi, Kampung Paya, Kepala Batas, Pulau Pinang.

2. Bahawa kamu didapati menerima wang hasil jualan dadah berbahaya jenis Heroin dan dadah jenis Syabu yang mengandungi dadah berbahaya jenis Methamphetamine sebanyak antara RM12,000.00 hingga RM15,000.00 daripada pengedar dadah tempatan dan membuat pengiraan wang tersebut dan memberi wang tersebut kembali kepada pengedar dadah tempatan dengan menerima upah sebanyak antara RM500.00 hingga RM1,000.00.

Dengan Arahan
Timbalan Menteri Dalam Negeri
....
(Mohd Adzharuddien Sin Baharom)
Penolong Setiausaha
(ADB - 4/2/401) Kementerian Dalam Negeri

[12] Issues raised by the applicant seeking for his release in this application for a writ of *habeas corpus* are two:

1st issue: Breach of Article 149 as Statement of Facts did not comply with the requirement of 'substantial body of persons' involvement;

2nd issue: failure to show that the applicant's involvement in the activities fall within the act of 'trafficking' under s. 2 of the Dangerous Drugs Act.

Deliberation On The First Issue: Non-compliance With Article 149

[13] The compelling authority decided by the Federal Court in *Selva Vinayagam Sures v. Timbalan Menteri Dalam Negeri, Malaysia & Ors* [2021] 2 CLJ 29; [2021] 1 MLJ 601 set the *ratio* that the detention order issued must satisfy the preconditions of art. 149 and the preamble of Act 316 that the issuance of the detention order is necessary in the interest of public order having regard to prejudicial action having been taken by a substantial body of persons. As to the meaning of 'substantial body of persons, *Selva Vinayagam* states it as "... a substantial body of persons" refer to a large number of individuals acting in concert or working together for a common purpose ...".

[14] Case authorities referred to by learned counsel for the applicant in her submission comprising of Federal Court decisions that ruled the referral to the involvement of 'pengedar dadah tempatan' in the statement of fact alone is insufficient to satisfy this material requirement of 'substantial body of persons' of art. 149 of FC, is very much significant and of utmost relevant to guide this court on this issue. This court took the time to inspect the contents of the statement of facts of these cases and observed that the statement of facts of these cases merely state (summarised by this court) 'the applicant had purchased the drugs from the local drug trafficker' and some with facts of repackaging them to smaller packs. That is all. (See: grounds of judgment of the High Court No: AA-44-45-08-2020 of *Mohammad Zulkarnain Zamri*, the statement of fact referred to in *Arvind Raj Thamil Selvan* in 05(HC)-103-09-2020(J), *Izham Mahamad* 05(HC)-223-10-2021 (B), *Yeh Ing Heoy* in B-01(A)-370-05-2022 (COA), *Teoh Kim Teik* 05(HC)-221-10-2021 (B) and *Hadi Adlin Abd Wahab* 05(HC)-249-11-2021 (B)).

[15] In *Arvind Raj Thamil Selvan* and *Hadi Adlin*, however, there was an additional fact of the applicant receiving some payment as wages or reward 'upah' for his involvement in the activity which the Federal Court on appeal had ruled this fact cumulatively as insufficient. Counsel also referred to a High Court decision of *Mohd Arizal Abdullah* Criminal Application BA-44-98-03-2022 where the application for *habeas corpus* was allowed on 9 September 2022. However, the order of the court annexed did not indicate the reason why the application was allowed as no minutes of the proceedings was included to show the issues raised and argued before the learned judge neither was the decision of the court included in the bundle to show specifically the dicta pertaining to this issue.

[16] The decision in *Mohd Arizal Abdullah* (*supra*) is important as the statement of fact as annexed by counsel shows a more elaborate statement of facts of the applicant's involvement in the trafficking activity with a large number of persons and the applicant playing the role as runner to deliver the drugs and receiving rewards or wages from this large number of persons, for the role played. The statement of facts further states he (the applicant) received the drugs supply from his accomplices.

[17] This court is of the stand that firstly, without the necessary judgment of the High Court (searches done on the relevant website of reported cases did not reveal any), it cannot be ascertained if the satisfaction on 'substantial body of persons' has been an issue before the learned High Court Judge, and a determination made by the learned High Court which may have a bearing on the same issue in other cases. Secondly, even if a decision was made on this point, it is just another High Court case which is not binding on this court.

[18] Hence, in the absence of written judgment, this court on the maxim of *stare decisis*, finds itself bound by the decisions of the apex court in all the authorities cited subject to this court am able to extract the full content of

the statement of facts that formed the basis of the issue. In this present case before this court, the statement of fact merely comprises of two paragraphs but the contents are of a more elaborate reason than normally encountered and may require an expansion of the application of the law than usually found.

[19] The crucial para. 2 of the statement of fact reveals the applicant acting as a medium for the local drug trafficker to hide the money trail of the big purchase sum of RM12,000 to RM15,000 where the applicant was deployed to receive the purchase money, for a reward, in place of the actual drug trafficker who would be the seller. Regardless of whether the big sum is stored somewhere or not, the act of receiving this purchase sum indicating of an attempt to hide its trail acts as a camouflage to the trafficking activity of the local drug trafficker so as to erase any money tracing that could link the drug trafficker to the sale and purchase of the dangerous drugs. This smart *modus operandi* in operating the drug trafficking activity and playing a role to influence the public to act as part of the chain of transaction in the trafficking activity must surely come from a high-level thinking group of people who are able to deploy its counterpart to influence others to agree to participate and be involved.

[20] As stated in *Selva Vinayagam*, "a substantial body of persons" refers to "a large number of individuals acting in concert or working together for a common purpose". It is immaterial which part of the chain of transaction this individual person (the applicant) appears so long as he or she is acting in concert for the same purpose that is to complete the drug trafficking activity. It is wrong to say that the word 'pengedar dadah tempatan' said to be in singular because of the word 'pengedar' instead of 'pengedar-pengedar' being used, as this is going to semantic. Similarly, the word 'saksi' does not indicate singular whilst the word 'saksi-saksi' is plural as it is totally inaccurate as a sentence is not framed to be 'lima orang saksi-saksi' but instead it is just 'lima orang saksi'.

[21] Hence, with the applicant's role in assisting the 'pengedar dadah tempatan' which this court says it must necessarily have to be a group with a number of members as each member has a separate or similar role to perform until the completion of the drug trafficking activity, the circle non-stop but repeated as the period encompassed in para. 1 of the statement to be for a number of months. When this court says it is a group with a number of members, it must necessarily mean an alliance formed to execute what would be impossible to execute individually. This formation of an alliance would satisfy the word 'syndicate' and need not necessarily mean of any particular large number of individuals, as *Selva Vinayagam* had left it to the wise discretion of the court to determine this.

[22] In *Selva Vinayagam* at para. 47 of the judgment sets the perimeters clearly that "the power under sub-s. 6(1) may only be exercised if the following three key ingredients are set out in the grounds of the detention

order and allegations of fact. One, that the activity which has been taken or is being threatened by a substantial body of persons relates to or involves the trafficking in dangerous drugs. Two, that the detenu is a member of a substantial body of persons. Three, that the Minister is satisfied that it is necessary in the interest of public order that the detenu be subject to preventive detention". A B

[23] It is this court's view that on the restriction to detain the applicant only if it can be shown that he is a member of a substantial body of persons, it need not be until a determination is made that he is a member of a syndicate because unless otherwise, the 60 days of the time given may be insufficient. Suffice if it can be shown that he operated the drug trafficking activity within a group of people. This clearly what Vernon FCJ says in *Selva Vinayagam* that "a large number of individuals acting in concert or working together for a common purpose". One individual mutually combined from all around the district and state to serve one purpose of the syndicate that is to execute the drug trafficking activity. C D

[24] Perhaps it would be appropriate to take this opportunity to state that members or the leaders of the syndicate would not make themselves known or easily identifiable hence the difficulty in gathering facts of their existence but yet the available affidavits of the Deputy Minister and the other respondents to satisfy the judiciary of the reason to detain on public order consideration, as required by the perimeters set in *Selva Vinayagam*, have been filed. E

[25] This court reminds itself that the non-stop continuous drug trafficking cases are due to many individuals either knowingly or not, are being used as drug mule by the syndicate. Reason being it is not just this single application for *habeas corpus* by this applicant is filed and heard but many others in other courts and in other states. This means cumulatively, different individual acting as conduit pipe to receive, deliver the drugs to the purchaser. Thus, put all these individuals together acting in concert with the 'pengedar dadah tempatan' moved this preventive law into place. (See: *Mohamad Ibrahim Kamarudin lwn. Timbalan Menteri Dalam Negeri, Malaysia & Yang Lain* [2018] 1 LNS 59; [2018] 7 MLJ 717) F G

[26] As ventilated, 'substantial body of persons' refers to not just 'a number of persons' but 'a large number' but yet no mathematical formula is set for the court to come to a decision that a particular number is a large number. This court had deliberated on this and ruled that the formulation of the statement of fact above shows the applicant was not acting on his own move but hired for a reward to execute the carrying out of the plan already chartered by the members of the alliance or syndicate. This satisfies the requirement of against public order and a substantial body of persons. (See: *Muhammad Redzuan Omar v. Timbalan Menteri Dalam Negeri, Malaysia & Anor* [2022] 1 LNS 880 (Federal Court). H I

[27] The Deputy Minister in his affidavit deposed to this effect as can be gathered from para. 8 of encl. 23 when he concluded that having perused the reports, was satisfied that the applicant was acting with a substantial body of persons and not alone. He was also satisfied that the applicant was involved with any activity relating to or involving the trafficking in dangerous drugs.

[28] In para 10, the Deputy Minister further said that he had viewed the contents of the 'alasan dan penyataan fakta' prepared and was satisfied it had been prepared according to his direction, based on the satisfaction and decision that he had arrived at. Counsel contended that nothing was stated in the affidavit that he had addressed on the 'public order' requirement. This court is of the view that reading the whole paragraphs of the affidavit including eight and ten, there is no doubt that this too, had been in the Deputy Minister's mind when the order was given to his officer to prepare exh. 'DSIMS-1'.

[29] Furthermore, in *Selva Vinayagam*, the panel in the judgment by Vernon FCJ, in addressing on the pertinent point of the phrase 'substantial body of persons' said at p. 45 para. 44 as follows:

> In the light of the foregoing, we think that the phrase 'a substantial body of persons' refer to a large number of individuals acting in concert or working together for a common purpose. In the context of Act 316, we think that it refers. to action which is prejudicial to public order which has been taken or is being threatened by a large number of individuals acting together in the trafficking in dangerous drugs.

[30] Analysing the excerpt above, this court alternatively finds that even if it is taken that the submission by counsel for the applicant to be correct, the referral in the affidavit of the Deputy Minister and the statement of fact exh. 'DSIMS-1' to 'a substantial body of persons' without fail means there was a need arising to protect and secure 'public order'. Hence, even if it was not clearly stated or there was in fact an omission to state this interest to safeguard 'public order' by the Deputy Minister in his affidavit, the existence of an involvement of 'a substantial body of persons' in itself would lead to the requirement to safeguard public order without having to emphasise it any further.

Second Issue: Failure To Show That The Applicant's Involvement In The Activities Fall Within The Act Of 'Trafficking' Under Section 2 Of The Dangerous Drugs Act

[31] Section 6 of the Act extracted in Bahasa Malaysia states as follows:

> 6. Kuasa memerintahkan tahanan dan sekatan orang
>
> (1) Jika Menteri, selepas menimbangkan:
>
> (a) laporan lengkap penyiasatan yang dikemukakan di bawah subseksyen 3(3); dan
>
> (b) laporan Pegawai Siasatan yang dikemukakan di bawah subseksyen 5(4)

> berpuas hati berkenaan dengan mana-mana orang **bahawa orang itu pernah ada atau sedang ada kaitan dengan apa-apa aktiviti yang berhubungan dengan atau yang melibatkan pengedaran dadah berbahaya**, Menteri boleh jika dia berpuas hati bahawa bagi kepentingan ketenteraman awam orang itu perlu ditahan melalui perintah (keudian daripada ini disebut "perintah tahanan" mengarahkan supaya orang itu ditahan selama suatu tempoh yang tidak melebihi dua tahun.
>
> (emphasis added)

[32] The argument by counsel is that the contended activity in para. 2 of the statement of fact does not qualify as a 'trafficking' activity under s. 2 of the DDA. The respondent on the other hand, submits that the provision of s. 6 LLPK is wider than the 'trafficking' definition as s. 6 encompass of the satisfaction of the Minister on 'activity relating to' as found in s. 6 and not just zooming in only to trafficking activity when s. 6 provides the pre-requisite as follows:

> is satisfied with respect to any person that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs ...

[33] The elaboration of this activity and how it fits in, in the chain of the acts of trafficking, had been dealt with earlier in this judgment. The Minister had deposed an affidavit affirming his belief that the act of the applicant as exhibited in the detention order is related to or involving the trafficking of dangerous drugs and is one that is against the public order.

[34] With the enemy of the state that is the syndicate widening its scope in engaging willing drug mules to be their arms and legs to perform the necessary prohibited activities and to chart ways and means to deter easy tracing to them, it makes all the sense to picture differently the receipt of the lucrative pay from the trafficking activity by introducing the role of the applicant so as to provide another layer of the money flow to prohibit from easy tracking to the syndicate.

[35] Paragraph 2 of the statement of fact, although the manner this was stated is in a short way but carries this larger picture. It is on this reasons that this court finds the submission put forward by the learned Senior Federal Counsel as valid and with basis. In the upshot, the application for *habeas corpus* is without merits and is dismissed.